

QUEENSLAND INDUSTRIAL RELATIONS COMMISSION

*Industrial Relations Act 1999* - s. 698 - reprint of award

**TALLOW INDUSTRY - CRAIG MOSTYN & CO. PTY LTD ENTERPRISE AWARD - STATE 2005**

Pursuant to s. 698 of the *Industrial Relations Act 1999*, the Tallow Industry - Craig Mostyn & Co. Pty Ltd Enterprise Award - State 2005 with all amendments as at 10 December 2009, is hereby reprinted.

I hereby certify that the Award contained herein is a true and correct copy of the Tallow Industry - Craig Mostyn & Co. Pty Ltd Enterprise Award - State 2005 as at 10 December 2009.

Dated 10 December 2009.

G.D. Savill  
Industrial Registrar

**TALLOW INDUSTRY - CRAIG MOSTYN & CO. PTY LTD ENTERPRISE AWARD - STATE 2005**

**PART 1 - APPLICATION AND OPERATION**

**1.1 Title**

This Award is known as the Tallow Industry - Craig Mostyn & Co. Pty Ltd Enterprise Award - State 2005.

**1.2 Arrangement**

Subject Matter Clause No.

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**1.3 Date of operation**

This Award takes effect from 25 May 2005.

**1.4 Award coverage**

1.4.1 This Award applies to Craig Mostyn & Co. Pty Ltd and all its employees engaged in or in connection with or incidental to receipt, storage, processing and discharge of animal or vegetable oils (edible or inedible), from tanks and all operations associated in the handling and storage of tallow.

1.4.2 Provided that this Award shall not apply to the following:

- (a) Managers (as defined in clause 1.5.3);
- (b) Qualified experimental or other professional staff.

**1.5 Definitions**

1.5.1 "Act" means the *Industrial Relations Act 1999* as amended or replaced from time to time.

- 1.5.2 "Commission" means the Queensland Industrial Relations Commission.
- 1.5.3 "Managers or Technical Employees" means those persons who are appointed by the employer to be in charge of any operations and/or who may be required because of their qualifications to perform and assist in certain technical functions, including qualified experimental or other professional staff.
- 1.5.4 "Union" means The Australian Workers' Union of Employees, Queensland.
- 1.5.5 "Weekly Employee" means an employee engaged by the week.

## **1.6 Parties bound**

This Award is legally binding on the employer(s) and employees as prescribed by clause 1.4, the Union and its members.

## **PART 2 - FLEXIBILITY**

### **2.1 Enterprise flexibility**

- 2.1.1 As part of a process of improvement in productivity and efficiency, discussion should take place at each enterprise to provide more flexible working arrangements, improvement in the quality of working life, enhancement of skills, training and job satisfaction and to encourage consultative mechanisms across the workplace.
- 2.1.2 The consultative processes established in an enterprise in accordance with clause 2.1 may provide an appropriate mechanism for consideration of matters relevant to clause 2.1.1. Union delegates at the place of work may be involved in such discussions.
- 2.1.3 Any proposed genuine agreement reached between an employer and employee/s in an enterprise is contingent upon the agreement being submitted to the Commission in accordance with Chapter 6 of the Act and is to have no force or effect until approval is given.

## **PART 3 - COMMUNICATION, CONSULTATION AND DISPUTE RESOLUTION**

### **3.1 Consultative mechanisms and procedures in the workplace**

- 3.1.1 The parties to this Award are committed to co-operating positively to increase the efficiency, productivity and competitiveness of the industries covered by this Award and to enhance the career opportunities and job security of employees in such industries.

### **3.2 Grievance and dispute settling procedure**

The matters to be dealt with in this procedure shall include all grievances or disputes between an employee and an employer in respect to any industrial matter and all other matters that the parties agree on and are specified herein. Such procedures shall apply to a single employee or to any number of employees.

- 3.2.1 In the event of an employee having a grievance or dispute the employee shall in the first instance attempt to resolve the matter with the immediate supervisor, who shall respond to such request as soon as reasonably practicable under the circumstances. Where the dispute concerns alleged actions of the immediate supervisor the employee/s may bypass this level in the procedure.
- 3.2.2 If the grievance or dispute is not resolved under clause 3.2.1, the employee or the employee's representative may refer the matter to the next higher level of management for discussion. Such discussion should, if possible, take place within 24 hours after the request by the employee or the employee's representative.
- 3.2.3 If the grievance involves allegations of unlawful discrimination by a supervisor the employee may commence the grievance resolution process by reporting the allegations to the next level of management beyond that of the supervisor concerned. If there is no level of management beyond that involved in the allegation the employee may proceed directly to the process outlined at clause 3.2.5.
- 3.2.4 If the grievance or dispute is still unresolved after discussions mentioned in clause 3.2.2, the matter shall, in the case of a member of a Union, be reported to the relevant officer of that Union and the senior management of the employer or the employer's nominated industrial representative. An employee who is not a member of the Union may report the grievance or dispute to senior management or the nominated industrial representative. This should occur as soon as it is evident that discussions under clause 3.2.2 will not result in resolution of the dispute.
- 3.2.5 If, after discussion between the parties, or their nominees mentioned in clause 3.2.4, the dispute remains

unresolved after the parties have genuinely attempted to achieve a settlement thereof, then notification of the existence of the dispute is to be given to the Commission in accordance with the provisions of the Act.

- 3.2.6 Whilst all of the above procedure is being followed, normal work shall continue except in the case of a genuine safety issue.
- 3.2.7 The *status quo* existing before the emergence of the grievance or dispute is to continue whilst the above procedure is being followed.
- 3.2.8 All parties to the dispute shall give due consideration to matters raised or any suggestion or recommendation made by the Commission with a view to the prompt settlement of the dispute.
- 3.2.9 Any Order or Decision of the Commission (subject to the parties' right of appeal under the Act) will be final and binding on all parties to the dispute.
- 3.2.10 Discussions at any stage of the procedure shall not be unreasonably delayed by any party, subject to acceptance that some matters may be of such complexity or importance that it may take a reasonable period of time for the appropriate response to be made. If genuine discussions are unreasonably delayed or hindered, it shall be open to any party to give notification of the dispute in accordance with the provisions of the Act.

## **PART 4 - EMPLOYER AND EMPLOYEES' DUTIES, EMPLOYMENT RELATIONSHIP AND RELATED ARRANGEMENTS**

### **4.1 Employment categories**

4.1.1 Employees covered by this Award shall be advised in writing of their employment category upon appointment. Employment categories are:

- (a) Full-time;
- (b) Part-time (as prescribed in clause 4.3); and
- (c) Casual (as prescribed in clause 4.4).

#### *4.1.2 Contract of employment*

Subject to this Award employees may be engaged on a part-time or casual basis.

An employee may be dismissed without notice for misconduct, dishonesty, drunkenness, incompetence, or neglect, and in such cases payment shall be made only for time worked. In all other cases of termination of employment by the employer, an employee shall be entitled to one week's notice or one week's pay in lieu of notice, and an employee on leaving shall give one week's notice or forfeit one week's pay in lieu of notice:

Provided that the one week's notice shall not be continued from day to day after the first week and shall not be counted as annual leave.

Where any employee has given or been given notice the employee shall continue in employment until the expiration of such notice. Any employee who having given or been given notice, without reasonable cause (proof of which shall lie on the employee) absents themselves from work during such periods shall be deemed to have abandoned their employment and shall not be entitled to payment for work done by them within the period.

It is a term and condition of this Award that all employees shall perform such work in such manner and in such places as the employer from time to time requires.

### **4.2 Full-time employment**

Full-time employee means a person who is engaged to work on a full-time basis.

### **4.3 Part-time employment**

Part-time employee means an employee not being a casual employee who is regularly employed for a minimum of not less than 15 hours each week and a maximum of 30 hours each week.

4.3.1 Employees may be employed part-time in any classification in this Award on the basis as follows:

- (a) Not less than 3 hours and not longer than 8 ordinary hours per day, not more than 5 days each week, and not less than 15 hours each week, nor in excess of 30 hours per week. All time worked in excess of 8 hours per day, 5 days per week, and/or 30 hours per week shall be overtime and paid for at the rates

prescribed for other weekly employees in clause 6.3.

- (b) The hours of duty each day shall be worked continuously:

Provided that an employee who is required to work longer than 5 hours shall be granted a meal break of not less than and not more than 30 minutes. The meal break shall not be counted as time worked. Any employee who is required to work for more than 5 hours without a meal break shall be paid at overtime rates for the time worked in excess of 5 hours, until such meal break is allowed.

- (c) Part-time employees shall be paid the ordinary appropriate hourly rate prescribed for the classification in which they are employed plus 10%. The additional 10% herein prescribed shall be regarded also as ordinary wages for the payment of annual leave, sick leave, and work not performed on a holiday.

The additional 10% herein prescribed shall not apply in addition to the rates prescribed to other weekly employees for work performed on Saturday, Sunday, holidays, overtime or where double time is prescribed in this Award.

- (d) The provisions of this Award in respect to annual leave, sick leave and holidays shall apply on a *pro rata* basis to part-time employees.
- (e) The proportionate number of part-time employees shall not exceed one part-time employee to every 2 weekly employees.

#### **4.4 Casual employment**

A casual employee means an employee engaged on an hourly basis. Casual employees shall be paid an hourly rate arrived at by adding 23% to their ordinary hourly rate for a full time employee.

#### **4.5 Two classes of work**

Where any person on any one day performs 2 or more classes of work to which a differential rate fixed by this Award is applicable, such person, if employed for more than 4 hours on the class or classes of work carrying a higher rate, shall be paid in respect of the whole time during which the employee works on that day at the same rate, which shall be at the highest rate fixed by this Award in respect of any of such classes of work, and if employed for 4 hours or less on the class or classes of work which carry a higher rate the employee shall be paid for such highest rate for 4 hours.

#### **4.6 Flexibility of work**

- 4.6.1 Employees shall perform work as required by the employer provided that such work is within that employee's limits of skills, competence and training:

Provided further that employees shall use tools and equipment as required by the employer subject to appropriate training having been given.

- 4.6.2 Any direction issued by the employer pursuant to clause 4.6.1 shall be consistent with the employer's responsibility to provide a safe and healthy working environment.

#### **4.7 Termination of employment**

##### *4.7.1 Termination by employer*

- (a) In order to terminate the employment of an employee the employer shall give the following notice:

| Period of Continuous Service                 | Period of Notice |
|--|------------------|
| not more than 1 year                         | 1 week           |
| more than 1 year, but not more than 3 years  | 2 weeks          |
| more than 3 years, but not more than 5 years | 3 weeks          |
| more than 5 years                            | 4 weeks          |

- (b) In addition to the notice in clause 4.7.1(a), employees over 45 years of age at the time of giving of notice and with not less than 2 years' continuous service, shall be entitled to an additional week's notice.

- (c) Payment in lieu of notice shall be made if the appropriate notice is not given:

Provided that employment may be terminated by part of the period of notice specified and part payment in lieu thereof.

- (d) The period of notice in clause 4.7.1 shall not apply to casual employees nor in the case of dismissal for misconduct (including dishonesty, intoxication or wilful disobedience) or other grounds that justify instant dismissal.

#### 4.7.2 *Notice of termination by employee*

- (a) 2 days' notice of termination is required to be given by the employee to the employer.
- (b) If an employee fails to give notice the employer shall have the right to withhold monies due to the employee with a maximum amount equal to the ordinary time rate for the period of notice.

#### 4.7.3 *Casual employees*

No notice is required to be given by the employer or the employee to terminate the hourly contract of employment of a casual employee.

### **4.8 Introduction of changes**

#### 4.8.1 *Employer's duty to notify*

- (a) Where an employer decides to introduce changes in production, program, organisation, structure or technology, that are likely to have significant effects on employees, the employer shall notify the employees who may be affected by the proposed changes and, where relevant, their union or unions.
- (b) "Significant effects" includes termination of employment, major changes in the composition, operation or size of the employer's workforce or in the skills required; the elimination or diminution of job opportunities or job tenure; the alteration of hours of work; the need for retraining or transfer of employees to other work or locations and the restructuring of jobs:

Provided that where the Award makes provision for alteration of any of the matters referred to herein an alteration shall be deemed not to have significant effect.

#### 4.8.2 *Employer's duty to consult over change*

- (a) The employer shall consult the employees affected and, where relevant, their union or unions about the introduction of the changes, the effects the changes are likely to have on employees (including the number and categories of employees likely to be dismissed, and the time when, or the period over which, the employer intends to carry out the dismissals), and the ways to avoid or minimise the effects of the changes (e.g. by finding alternate employment).
- (b) The consultation must occur as soon as practicable after making the decision referred to in clause 4.8.1.
- (c) For the purpose of such consultation the employer shall provide in writing to the employees concerned and, where relevant, their union or unions, all relevant information about the changes including the nature of the changes proposed, the expected effects of the changes on employees, and any other matters likely to affect employees:

Provided that an employer shall not be required to disclose confidential information, the disclosure of which would be adverse to the employer's interests.

### **4.9 Redundancy**

#### 4.9.1 *Consultation before terminations*

- (a) Where an employer decides that the employer no longer wishes the job the employee has been doing to be done by anyone, and this is not due to the ordinary and customary turnover of labour, and that decision may lead to termination of employment, the employer shall consult the employee directly affected and where relevant, their union or unions.
- (b) The consultation shall take place as soon as it is practicable after the employer has made a decision, which will invoke the provisions of clause 4.9.1(a) and shall cover the reasons for the proposed terminations, measures to avoid or minimise the terminations and/or their adverse affects on the employees concerned.
- (c) For the purpose of the consultation the employer shall, as soon as practicable, provide in writing to the employees concerned and, where relevant, their union or unions, all relevant information about the proposed terminations including the reasons for the proposed terminations, the number and categories of employees likely to be affected, the number of workers normally employed and the period over which the

terminations are likely to be carried out:

Provided that an employer shall not be required to disclose confidential information, the disclosure of which would be adverse to the employer's interests.

#### 4.9.2 *Transfer to lower paid duties*

- (a) Where an employee is transferred to lower paid duties for reasons set out clause 4.9.1 the employee shall be entitled to the same period of notice of transfer as the employee would have been entitled to if the employee's employment had been terminated under clause 4.7.
- (b) The employer may, at the employer's option, make payment in lieu thereof of an amount equal to the difference between the former amounts the employer would have been liable to pay and the new lower amount the employer is liable to pay the employee for the number of weeks of notice still owing.
- (c) The amounts must be worked out on the basis of:
  - (i) the ordinary working hours to be worked by the employee; and
  - (ii) the amounts payable to the employee for the hours including for example, allowances, loadings and penalties; and
  - (iii) any other amounts payable under the employee's employment contract.

#### 4.9.3 *Transmission of business*

- (a) Where a business is, whether before or after the date of insertion of this clause in the Award transmitted from an employer (transmittor) to another employer (transmittee), and an employee who at the time of such transmission was an employee of the transmittor of the business, becomes an employee of the transmittee:
  - (i) the continuity of the employment of the employee shall be deemed not to have been broken by reason of such transmission; and
  - (ii) the period of employment which the employee has had with the transmittor or any prior transmittor shall be deemed to be service of the employee with the transmittee.
- (b) In clause 4.9.3, "business" includes trade, process, business or occupation and includes a part or subsidiary (which means a corporation that would be taken to be a subsidiary under the Corporations Law, whether or not the Corporations Law applies in the particular case) of any such business and 'transmission' includes transfer, conveyance, assignment or succession whether by agreement or by operation of law and 'transmitted' has a corresponding meaning.

#### 4.9.4 *Time off during notice period*

- (a) Where a decision has been made to terminate an employee in the circumstances outlined in clause 4.9.1, the employee shall be allowed up to one day's time off without loss of pay during each week of notice for the purpose of seeking other employment.
- (b) If the employee has been allowed paid leave for more than one day during the notice period for the purpose of seeking other employment, the employee shall, at the request of the employer, be required to produce proof of attendance at an interview or the employee shall not receive payment for the time absent. For this purpose a statutory declaration will be sufficient.

#### 4.9.5 *Notice to Centrelink*

Where a decision has been made to terminate employees in the circumstances outlined in clause 4.9.1, the employer shall notify Centrelink as soon as possible giving all relevant information about the proposed terminations, including a written statement of the reasons for the terminations, the number and categories of the employees likely to be affected, the number of workers normally employed and the period over which the terminations are intended to be carried out.

#### 4.9.6 *Severance pay*

- (a) In addition to the period of notice prescribed for ordinary termination in clause 4.7.1(a), and subject to further order of the Commission, an employee whose employment is terminated for reasons set out in clause 4.9.1(a), shall be entitled to the following amounts of severance pay:

Period of Continuous Service

Severance Pay

(weeks' pay)

|   |     |
|---|-----|
| Less than 1 year                              | nil |
| 1 year but not more than 2 years              | 4   |
| More than 2 years but not more than 3 years   | 6   |
| More than 3 years but not more than 4 years   | 7   |
| More than 4 years but not more than 5 years   | 8   |
| More than 5 years but not more than 6 years   | 9   |
| More than 6 years but not more than 7 years   | 10  |
| More than 7 years but not more than 8 years   | 11  |
| More than 8 years but not more than 9 years   | 12  |
| More than 9 years but not more than 10 years  | 13  |
| More than 10 years but not more than 11 years | 14  |
| More than 11 years but not more than 12 years | 15  |
| More than 12 years                            | 16  |

- (b) "Weeks' Pay" means the ordinary time rate of pay for the employee concerned:

Provided that the following amounts are excluded from the calculation of the ordinary time rate of pay: overtime, penalty rates, disability allowances, shift allowances, special rates, fares and travelling time allowances, bonuses and any other ancillary payments.

#### 4.9.7 *Superannuation benefits*

An employer may make an application to the Commission for relief from the obligation to make severance payments in circumstances where:

- (a) the employer has contributed to a superannuation scheme which provides a particular benefit to an employee in a redundancy situation; and
- (b) the particular benefit to the employee is over and above any benefit the employee might obtain from any legislative scheme providing for superannuation benefits (currently the federal Superannuation Guarantee levy) or an award based superannuation scheme.

#### 4.9.8 *Employee leaving during notice*

An employee whose employment is terminated for reasons set out in clause 4.9.1(a), may terminate such employment during the period of notice, and, if so, shall be entitled to the same benefits and payments under this clause had such employee remained with the employer until the expiry of such notice:

Provided that in such circumstances the employee shall not be entitled to payment in lieu of notice.

#### 4.9.9 *Alternative employment*

An employer, in a particular case, may make application to the Commission to have the general severance pay prescription amended if the employer obtains acceptable alternative employment for an employee.

#### 4.9.10 *Employees with less than one year's service*

Clause 4.9 shall not apply to employees with less than one year's continuous service and the general obligation on employers should be no more than to give relevant employees an indication of the impending redundancy at the first reasonable opportunity, and to take such steps as may be reasonable to facilitate the obtaining by the employees of suitable alternative employment.

#### 4.9.11 *Employees exempted*

Clause 4.9 shall not apply:

- (a) where employment is terminated as a consequence of misconduct on the part of the employee; or
- (b) to employees engaged for a specific period or task(s), or
- (c) to casual employees

#### 4.9.12 *Employers exempted*

- (a) Subject to an order of the Commission, in a particular redundancy case, clause 4.9 shall not apply to an employer including a company or companies that employ employees working a total of fewer than 550



hours on average per week, excluding overtime, Monday to Sunday. The 550 hours shall be averaged over the previous 12 months.

- (b) A "company" shall be defined as:
  - (i) a company and the entities it controls; or
  - (ii) a company and its related company or related companies; or
  - (iii) a company where the company or companies has a common Director or common Directors or a common shareholder or common shareholders with another company or companies.

#### 4.9.13 *Exemption where transmission of business*

- (a) The provisions of clause 4.9.6 are not applicable where a business is before or after the date of the insertion of this clause into the Award, transmitted from an employer (transmittor) to another employer (transmittee), in any of the following circumstances:
  - (i) where the employee accepts employment with the transmittee which recognises the period of continuous service which the employee had with the transmittor, and any prior transmittor, to be continuous service of the employee with the transmittee; or
  - (ii) where the employee rejects an offer of employment with the transmittee:
    - (A) in which the terms and conditions are substantially similar and no less favourable, considered on an overall basis, than the terms and conditions applicable to the employee at the time of ceasing employment with the transmittor; and
    - (B) which recognises the period of continuous service which the employee had with the transmittor and any prior transmittor to be continuous service of the employee with the transmittee.
- (b) The Commission may amend clause 4.9.13(a)(ii) if it is satisfied that it would operate unfairly in a particular case, or in the instance of contrived arrangements.

#### 4.9.14 *Incapacity to pay*

An employer in a particular redundancy case may make application to the Commission to have the general severance pay prescription amended on the basis of the employer's incapacity to pay.

### **4.10 Anti-discrimination**

4.10.1 It is the intention of the parties to this Award to prevent and eliminate discrimination, as defined by the *Anti-Discrimination Act 1991* and the *Industrial Relations Act 1999* as amended from time to time, which includes:

- (a) discrimination on the basis of sex, marital status, family responsibilities, pregnancy, parental status, age, race, impairment, religion, political belief or activity, trade union activity, lawful sexual activity and association with, or relation to, a person identified on the basis of any of the above attributes;
- (b) sexual harassment; and
- (c) racial and religious vilification.

4.10.2 Accordingly, in fulfilling their obligations under the grievance and dispute settling procedure in clause 3.2, the parties to this Award must take reasonable steps to ensure that neither the Award provisions nor their operation are directly or indirectly discriminatory in their effects.

4.10.3 Under the *Anti-Discrimination Act 1991* it is unlawful to victimise an employee because the employee has made or may make or has been involved in a complaint of unlawful discrimination or harassment.

4.10.4 Nothing in clause 4.10 is to be taken to affect:

- (a) any different treatment (or treatment having different outcomes) which is specifically exempted under the *Anti-Discrimination Act 1991*;
- (b) an employee, employer or registered organisation pursuing matters of discrimination, including by application to the Human Rights and Equal Opportunity Commission/Anti-Discrimination Commission Queensland.

#### 4.11 Continuity of service - transfer of calling

In cases where a transfer of calling occurs, continuity of service should be determined in accordance with sections 67-71 of the Act, as amended from time to time.

### PART 5 - WAGES AND WAGE RELATED MATTERS

#### 5.1 Wages

5.1.1 The minimum rates of wages payable to the following classes of employees shall be as follows:

|                        | Per week<br>\$ |
|------------------------|----------------|
| Tank terminal operator | 624.10         |
| General hand           | 597.00         |

5.1.2 Youths under 18 years of age:

|                          | Percentage of<br>minimum adult<br>rate<br>% |
|--------------------------|---|
| First year's experience  | 50  |
| Second year's experience | 55  |
| Third year's experience  | 75  |

Thereafter the minimum adult rate.

Junior rates shall be calculated in multiples of 10 cents with any result of 5 cents or more being taken to the next highest ten cent multiple.

5.1.3 Casual employees shall be paid 1/38th of the ordinary weekly rate prescribed for the class of work on which they are engaged plus 23%.

Note 1: The rates of pay in this Award are intended to include the arbitrated wage adjustment payable under the 1 September 2009 Declaration of General Ruling and earlier Safety Net Adjustments and arbitrated wage adjustments. This arbitrated wage adjustment may be offset against any equivalent amount in rates of pay received by employees whose wages and conditions of employment are regulated by this Award which are above the wage rates prescribed in the Award. Such payments include wages payable pursuant to certified agreements, currently operating enterprise flexibility agreements, Queensland workplace agreements, award amendments to give effect to enterprise agreements and overaward arrangements. Absorption which is contrary to the terms of an agreement is not required.

Increases made under previous State Wage Cases or under the current Statement of Principles, excepting those resulting from enterprise agreements, are not to be used to offset arbitrated wage adjustments.

#### 5.2 Allowances

##### 5.2.1 *First aid allowance*

Any qualified employee appointed by the employer to perform first aid duty shall be paid \$5.30 per week in addition to their ordinary rate of pay.

##### 5.2.2 *Extra payment for afternoon and night shift workers*

- (a) "Afternoon shift" means any shift commencing between 3 p.m. and 6 p.m. on any one day.
- (b) "Night shift" means any shift commencing between 6 p.m. and 2 a.m. on any one day.
- (c) Clause 5.2.2 is subject to clause 6.1.3.

##### 5.2.3 *Afternoon shift allowance*

The percentage allowance to be 12.5% or \$9.70 per shift (whichever is the greater).

#### 5.2.4 *Night shift allowance*

The percentage allowance to be 15% or \$9.70 per shift (whichever is the greater).

### 5.3 **Payment of wages**

Payment of wages shall be made weekly in the employer's time.

### 5.4 **Payment of employees dismissed**

Upon termination of employment, wages shall be paid at time of termination or by the employer dispatching the same on the next working day.

### 5.5 **Superannuation**

#### 5.5.1 *Application*

In addition to any other entitlement pursuant to this Award, eligible employees shall be entitled to superannuation payments made by the employer into an approved occupational superannuation fund in accordance with the following provisions of clause 5.5.

#### 5.5.2 *Definitions and eligibility*

- (a) "The approved fund" means the Australian Rural Industries Superannuation Fund known as "AUSTSAFE" established by a Deed of Trust dated the 31 August 1988, and Rules thereto as amended.
- (b) "Eligible employee" means any employee employed for not less than 8 hours in any one week.
- (c) For the purposes of clause 5.5 "ordinary time earnings" means and includes:
  - (i) the weekly pay for ordinary hours worked, including any over-Award payments;
  - (ii) any appropriate "all purpose" allowances or amounts including leading hand allowance; and
  - (iii) shift allowances and additional amounts paid for ordinary time worked on Saturdays and Sundays.
- (d) The employer and employee may agree to have the employee's superannuation contributions made to an approved superannuation fund, other than those specified in this Award.
  - (i) Any such agreement must be recorded in writing and signed by the employer and employee and kept on the employee's file.
  - (ii) A person must not coerce someone else to make an agreement.
  - (iii) Such agreement, where made, will continue until such time as the employer and employee agree otherwise, and shall be made available to relevant persons for the purposes of sections 371 and 373 (inspection of time and wage records) of the Act.
  - (iv) Any dispute arising out of this process will be handled in accordance with the grievance and dispute settling procedure as contained in clause 3.2.

#### 5.5.3 *Record keeping*

The Employer shall be required to maintain records of time worked for the purposes of establishing the employee's entitlement to occupational superannuation, and of payments made to the approved fund in similar form to time and wages records required to be kept in accordance with section 366 of the Act, and shall have such records available for inspection by an industrial officer of the Union, authorised pursuant to section 371 of that Act.

#### 5.5.4 *Contributions*

- (a) The employer shall contribute on behalf of each eligible employee an amount calculated at 9% of the employee's ordinary time earnings rounded off to the nearest 10 cents into the approved occupational superannuation fund.
- (b) Contributions for casual employees shall be on the same basis as full-time employees, or *pro rata* if less than a full week is worked, including casual loading.
- (c) The employer may suspend; for the applicable period contributions made on behalf of an employee if the

employee is absent from the workplace other than for annual leave, long service leave, public holidays, paid sick leave, or workers' compensation leave for a period of not more than 26 weeks.

#### 5.5.5 *General*

- (a) The Employer shall remit contributions to the approved fund on a monthly basis.
- (b) Other contributions. - Eligible employees may personally contribute additional amounts to the fund in addition to the minimum employer contributions set out in clause 5.5.4 by way of voluntary contribution and the employer shall (at the employee's written request) make arrangements for authorised deductions from the employee's pay to be forwarded to the administrators of the fund.
- (c) No other deductions. - No additional amount shall be paid by the employer for the establishment, administration, management or any other charges in connection with the fund apart from remission of contributions on a monthly basis.
- (d) Cessation of contributions. - The employer shall not be required to make any further contributions on behalf of an eligible employee after the end of the day upon which the contract of employment ceases to exist.
- (e) Nothing in clause 5.5 shall act to diminish the rights and responsibilities of the Trustees of the fund as set out in accordance with the Deed of Trust and Rules thereto as amended.

### **PART 6 - HOURS OF WORK, BREAKS, OVERTIME, SHIFT WORK, WEEKEND WORK**

#### **6.1 Hours of work**

- 6.1.1 The ordinary working hours of employees engaged on weekly hiring other than part-time employees shall not exceed 38 in any one week or 8 on any one day, to be worked on not more than 5 days of the week.
- 6.1.2 The ordinary starting and ceasing times each day shall be as mutually arranged between the employer and the Branch Secretary of the Union.
- 6.1.3 Shift work may be worked according to a roster agreed upon between the Employer and the Branch Secretary of the Union. Shift work shall constitute 8 hours per shift to be worked on any 5 days of the week, provided that in the event of regular shift work being instituted, the parties shall be at liberty to further confer regarding shift work conditions.
- 6.1.4 *Operation of 38 hour week*
  - (a) Subject to clause 6.1.5, and subject to the exceptions hereinafter provided, the ordinary hours of work shall be an average of 38 per week, to be worked on one of the following bases:
    - (i) 38 hours within a cycle not exceeding 7 consecutive days; or
    - (ii) 76 hours within a work cycle not exceeding 14 consecutive days; or
    - (iii) 114 hours within a work cycle not exceeding 21 consecutive days; or
    - (iv) 152 hours within a work cycle not exceeding 28 days.
  - (b) The ordinary hours of work shall not exceed 10 hours per day.
  - (c) Where necessary, employees shall commence their ordinary hours and breaks at different times to ensure continuity of service.
  - (d) The ordinary starting and finishing times may be altered to suit geographic, safety, climatic or traffic conditions by the employer with the agreement of the majority of employees concerned:

Provided that any such altered starting and finishing time will not invoke any penalty payment that would not be payable if the Award spread of hours was observed.
  - (e) Employees are required to observe the nominated starting and finishing times for the work day, including designated breaks to maximise available working time. Preparation for work and cleaning up of the employee's person shall be in the employee's time.
  - (f) Where a rostered day falls on a public holiday, the following day may be taken where practicable in lieu thereof or the employee and the employer may agree to an alternative day off duty as substitution.

(g) Pay averaging

Employees shall be entitled to a week's wages in accordance with clauses 5.1 and 5.2 for each week of the cycle.

(h) The entitlement to a rostered day off on full pay shall be subject to the following:

- (i) Each day of paid leave taken (not including annual leave, long service leave) and any public holiday occurring during any cycle of 4 weeks shall be regarded as a day worked for accrual purposes.
- (ii) An employee who has not worked a complete 4 week cycle in order to accrue a rostered day off shall be paid a *pro rata* amount for credits accrued for each day worked in such cycle payable for the rostered day off (i.e. an amount of 24 minutes for each 8 hour day worked or 2 hours for each 40 hours worked).

For the purposes of clause 6.1.4(h), "worked" includes paid leave referred to in clause 6.1.4(h)(i).

(i) Sickness on a rostered day off which has resulted from the 19 days month work cycle

Where an employee is sick or injured on their rostered day off the employee shall not be entitled to sick pay nor shall their sick pay entitlement be reduced as a result of the sickness or injury on that day.

(j) Payment of wages

In the event that an employee by virtue of the arrangement of the employee's ordinary working hours is rostered off duty on a day which coincides with pay day, such employee shall be paid no later than the working day immediately following such pay day.

#### 6.1.5 Implementation of a 38 hour week

(a) The 38 hour week shall be implemented on one of the following bases, most suitable to each location, after consultation with and giving reasonable consideration to the wishes of the employees concerned:

- (i) by employees working less than 8 ordinary hours each day; or
- (ii) by employees working less than 8 ordinary hours on one or more days each work cycle; or
- (iii) by fixing one or more work days on which all employees will be off during a particular work cycle; or
- (iv) by rostering employees off on various days of the week during a particular work cycle, so that each employee has one work day off during that cycle.

(b) Subject to clause 6.1.5, employees may agree that the ordinary hours of work are to exceed 8 on any day, thus enabling more than one work day to be taken off during a particular work cycle.

(c) Notwithstanding any other provision in clause 6.1.5, where the arrangement of ordinary hours of work provides for a rostered day off, the employer and the employee concerned, may agree to accrue up to a maximum of 5 rostered days off. Where such agreement has been reached, the accrued rostered days off shall be taken within 12 calendar months of the date on which the first rostered day off was accrued. Consent to accrue rostered days off shall not be unreasonably withheld by either party.

(d) Different methods of implementation of the 38 hour week may apply to individual employees, groups or sections of employees in each location concerned.

#### 6.1.6 Procedure for discussions - 38 hour week

(a) The employer and all employees concerned in each establishment shall consult over the most appropriate means of implementing and working a 38 hour week.

(b) The object of such consultation shall be to reach agreement on the method of implementing and working the 38 hour week in accordance with clause 6.1.

(c) The outcome of such consultation shall be recorded in writing.

(d) In cases where agreement cannot be reached as a result of consultation between the parties, either party may request the assistance or advice of their relevant employee or employer organisation.

- (e) Notwithstanding the consultative procedures outlined above, and notwithstanding any lack of agreement by employees, the employer shall have the right to make the final determination as to the method by which the 38 hour week is implemented from time to time.
- (f) After implementation of the 38 hour week, upon giving 7 days' notice, or such shorter period as may be mutually agreed upon, the method of working the 38 hour week may be altered, from time to time, following negotiations between the employer and employees concerned, utilising the foregoing provisions of clause 6.1.6, including 6.1.6(e).

6.1.7 Broken shifts may be permitted and shall only be worked where there is mutual agreement between the employer and the employee. When such shift is rostered a total of 8 hours only shall be worked and each portion of the shift shall be of 4 hours' duration and shall be worked within a spread of 12 hours.

6.1.8 A roster setting out the employee's days off duty and starting and finishing times on such days shall be displayed in a place conveniently accessible to employees at least 3 days before the commencement of each week.

6.1.9 Rosters shall provide a minimum of 10 hours break between the finish of ordinary hours on one day and the commencement of ordinary hours on the following day.

## **6.2 Meal breaks**

6.2.1 All employees shall be allowed not less than one half hour nor more than one hour for a meal each day, which shall be taken between the fourth and sixth hours after commencing work, where practicable. The said meal break shall not be taken as time worked.

6.2.2 An employee who is required to continue working for more than one hour beyond their ordinary ceasing time on any one day shall, if not notified on the previous working day, be provided with an adequate meal by their employer or paid an amount of \$9.60 in lieu thereof:

Provided that where an employee has provided themselves with a meal because of receipt of notice given the day before, to work overtime and such overtime is not worked, they shall be paid \$9.60 for any meal so provided.

6.2.3 Shift workers shall be allowed a paid crib break of 30 minutes for a meal, such break to be taken as near as practicable to the middle of each shift.

## **6.3 Overtime**

6.3.1 All time worked in excess of the ordinary working hours or outside the ordinary starting and ceasing times on any one day shall be deemed overtime and shall be paid for at the rate of time and a-half for the first 3 hours and double time thereafter.

6.3.2 Provided that all time worked on the sixth day in any one week by an employee shall be paid for at the rate of time and a-half for the first 3 hours and double time thereafter with a minimum of 4 hours worked or payment therefore.

6.3.3 Provided further that all time worked on the seventh day in any one week by an employee shall be paid for at the rate of double time with a minimum of 4 hours work or payment therefor.

6.3.4 An employee working overtime after normal ceasing time shall be allowed a meal break of 30 minutes without deduction of pay after each four hours of overtime worked if the employee continues work after such crib time.

6.3.5 All time worked by shift workers in excess of their normal daily rostered working hours shall be paid for at overtime rates, subject to clause 6.1.3.

6.3.6 All employees shall work reasonable overtime when required to do so by the employer.

6.3.7 An employee who works so much overtime between the termination of their ordinary work on one day and the commencement of their ordinary work on the next day that they have not at least 10 consecutive hours off duty between those times shall, subject to clause 6.3.7 be released after completion of such overtime until they have had 10 consecutive hours off duty without loss of pay for ordinary working time occurring during such absence. If on the instructions of their employer such an employee resumes or continues work without having had such 10 consecutive hours off duty, they shall be paid double rates until they are released from duty for such period and they shall then be entitled to be absent until they have had 10 consecutive hours off duty without loss of pay for ordinary working time occurring during such absence.

## **6.4 Rest pauses**

A rest period of 10 minutes' duration in the employer's time in the first and second half of their normal working hours

shall be allowed such employees covered by this Award.

## **6.5 Shift work**

6.5.1 *Afternoon and night shifts* - All afternoon shifts worked during the ordinary 38 hours shall be paid for at the rate of 12.5% or \$9.70 per shift (whichever is the greater) and all night shifts worked during the ordinary 38 hours shall be paid for at the rate of 15% or \$9.70 (whichever the greater) per shift in ordinary rates of pay prescribed in clause 5.1 of this Award.

- (a) "Afternoon Shift" means any shift commencing between 3 p.m. and 6 p.m. on any one day.
- (b) "Night Shift" means any shift commencing between 6 p.m. and 2 a.m. on any one day.
- (c) Clause 6.5. is subject to clause 6.1.3.

## **PART 7 - LEAVE OF ABSENCE AND PUBLIC HOLIDAYS**

### **7.1 Annual leave**

7.1.1 Every employee (other than a casual employee) covered by this Award, shall at the end of each year of their employment be entitled to annual leave on full pay of 4 weeks. For the purposes of clause 7.1 "year of employment" means and includes any year of employment completed on or after 3rd December, 1973.

7.1.2 Such annual leave shall be exclusive of any public holiday which may occur during the period of that annual leave and (subject to clause 7.1.5) shall be paid for by the employer in advance:

- (a) In the case of any and every employee in receipt immediately prior to that leave of ordinary pay at a rate in excess of the ordinary rate payable under this Award at that excess rate; and
- (b) in every other case, at the ordinary rate payable to the employee concerned immediately prior to that holiday under this Award.

7.1.3 If the employment of any employee is terminated at the expiration of a full year of employment, the employer shall be deemed to have given the leave to the employee from the date of the termination of the employment and shall forthwith pay to the employee in addition to all other amounts due to the employee, the employee's pay, calculated in accordance with clause 7.1.5, for 4 weeks and also the employee's ordinary pay for any public holiday occurring during such period of 4 weeks.

7.1.4 If the employment of any employee is terminated before the expiration of a full year of employment, such employee shall be paid, in addition to all other amounts due to the employee, an amount equal to 1/12th of the employee's pay for the period of the employee's employment calculated in accordance with clause 7.1.5.

7.1.5 *Calculation of annual leave pay* - In respect to annual leave entitlements to which clause 7.1.5 applies, annual leave pay (including any proportionate payments) shall be calculated as follows:

- (a) Shift workers - Subject to clause 7.1.5(c), the rate of wage to be paid to a shift worker shall be the rate payable for work in ordinary time according to the employee's roster or projected roster, including, Saturday, Sunday or holiday shifts.
- (b) Leading hands, etc. - Subject to clause 7.1.5 (c), leading hands allowances and amounts of a like nature otherwise payable for ordinary time worked shall be included in the wages to be paid to employees during annual leave.
- (c) All employees - Subject to the provisions of clause 7.1.5(d) in no case shall the payment by an employer to an employee be less than the sum of the following amounts:
  - (i) The employee's ordinary wage rate as prescribed by the Award for the period of the annual leave (excluding shift premiums and week-end penalty rates);
  - (ii) Leading hand allowances or amounts of a like nature;
  - (iii) A further amount calculated at the rate of 17.5% of the amounts referred to in clauses 7.1.5(c)(i) and 7.1.5(c)(ii).
- (d) The provisions of clause 7.1.5(c) shall not apply to the following:
  - (i) Any period or periods of annual leave exceeding:

- (A) 5 weeks in the case of employees employed in a calling where 3 shifts per day are worked over a period of 7 days per week;
  - (B) 4 weeks in any other case.
- (ii) Employers (and their employees) who are already paying (or receiving) an annual leave bonus loading or other annual leave payment which is not less favourable to employees.

7.1.6 Reasonable notice shall be given to each employee of such annual leave becoming due.

7.1.7 Except as hereinbefore provided it shall not be lawful for the employer to give or for any employee to receive payment in lieu of annual leave.

## **7.2 Sick leave**

### *7.2.1 Entitlement*

- (a) Every employee, except casuals and school-based apprentices and trainees, is entitled to 60.8 hours' sick leave for each completed year of their employment with their employer:

Provided that part-time employees accrue sick leave on a proportional basis.

- (b) This entitlement will accrue at the rate of 7.6 hours' sick leave for each 6 weeks of employment.
- (c) Payment for sick leave will be made based on the number of hours which would have been worked by the employee if the employee were not absent on sick leave.
- (d) Sick leave may be taken for part of a day.
- (e) Sick leave shall be cumulative, but unless the employer and employee otherwise agree, no employee shall be entitled to receive, and no employer shall be bound to make, payment for more than 13 weeks' absence from work through illness in any one year.

### *7.2.2 Employee must give notice*

The payment of sick leave is subject to the employee promptly advising the employer of the employee's absence and its expected duration.

### *7.2.3 Evidence supporting a claim*

When the employee's absence is for more than 2 days the employee is required to give the employer a doctor's certificate, or other reasonably acceptable evidence, about the nature and approximate duration of the illness.

### *7.2.4 Accumulated sick leave*

An employee's accumulated sick leave entitlements are preserved when:

- (a) The employee is absent from work on unpaid leave granted by the employer;
- (b) The employer or employee terminates the employee's employment and the employee is re-employed within 3 months;
- (c) The employee's employment is terminated because of illness or injury and the employee is re-employed by the same employer without having been employed in the interim.

The employee accumulates sick leave entitlements whilst absent from work on paid leave granted by the employer.

### *7.2.5 Workers' compensation*

Where an employee is in receipt of workers' compensation, the employee is not entitled to payment of sick leave.

## **7.3 Bereavement leave**

### *7.3.1 Full-time and part-time employees*

Full-time and part-time employees shall, on the death of a member of their immediate family or household in Australia, be entitled to paid bereavement leave up to and including the day of the funeral of such person. Such leave shall be without deduction of pay for a period not exceeding the number of hours worked by the employee in 2 ordinary days of



work. Proof of such death is to be furnished by the employee to the satisfaction of the employer.

### 7.3.2 Long-term casual employees

- (a) A long-term casual employee is entitled to at least 2 days unpaid bereavement leave on the death of a member of the person's immediate family or household in Australia.
- (b) A "long-term casual employee" is a casual employee engaged by a particular employer, on a regular and systematic basis, for several periods of employment during a period of at least 1 year immediately before the employee seeks to access an entitlement under clause 7.3.2.

### 7.3.3 "Immediate family" includes:

- (a) A spouse (including a former spouse, a *de facto* spouse and a former *de facto* spouse, spouse of the same sex) of the employee; and
- (b) A child or an adult child (including an adopted child, a foster child, an ex-foster child, a stepchild or an ex-nuptial child), parent, grandparent, grandchild or sibling of the employee or spouse of the employee.

### 7.3.4 Unpaid leave

An employee with the consent of the employer, may apply for unpaid leave when a member of the employee's immediate family or household in Australia dies and the period of bereavement leave entitlement provided above is insufficient.

## 7.4 Long service leave

All employees covered by this Award are entitled to long service leave on full pay under, subject to, and in accordance with, the provisions of Chapter 2, Part 3, sections 42-58 of the Act as amended from time to time.

## 7.5 Family leave

The provisions of the Family Leave Award 2003 apply to and are deemed to form part of this Award.

### 7.5.1 It is to be noted that:

- (a) part-time work can be performed by agreement in the circumstances specified in the Family Leave Award 2003;
- (b) a copy of the Family Leave Award 2003 is required to be displayed in accordance with section 697 of the Act.

### 7.5.2 The Family Leave Award 2003 also provides for the terms and conditions of leave associated with:

- (a) Maternity leave
- (b) Parental leave
- (c) Adoption leave
- (d) Special responsibility leave for the care and support of the employee's immediate family or household.

## 7.6 Public holidays

### 7.6.1 Subject to clause 7.6.7 all work done by any employee on:

- 1 January;
- 26 January;
- Good Friday;
- Easter Saturday (the day after Good Friday);
- Easter Monday;
- 25 April (Anzac Day);
- The Birthday of the Sovereign;
- Christmas Day;
- Boxing Day; or
- any day appointed under the *Holidays Act 1983*, to be kept in place of any such holiday

will be paid for at the rate of double time and a-half with a minimum of 4 hours.

### 7.6.2 *Labour Day*

All employees covered by this Award are entitled to be paid a full day's wage for Labour Day (the first Monday in May or other day appointed under the *Holidays Act 1983*, to be kept in place of that holiday) irrespective of the fact that no work may be performed on such day, and if any employee concerned actually works on Labour Day, such employee will be paid a full day's wage for that day and in addition a payment for the time actually worked by the employee at one and a-half times the ordinary time rate of pay prescribed for such work with a minimum of 4 hours.

### 7.6.3 *Annual show*

All work done by employees in a district specified from time to time by the Minister by notification published in the *Industrial Gazette* on the day appointed under the *Holidays Act 1983*, to be kept as a holiday in relation to the annual agricultural, horticultural or industrial show held at the principal city or town, as specified in such notification of such district will be paid for at the rate of double time and a-half with a minimum of 4 hours.

In a district in which a holiday is not appointed for an annual agricultural, horticultural or industrial show, the employee and employer must agree on an ordinary working day that is to be treated as a show holiday for all purposes.

### 7.6.4 *Employees who do not work Monday to Friday of each week*

Employees who do not ordinarily work Monday to Friday of each week are entitled to public holidays as follows:

- (a) A full-time employee is entitled to either payment for each public holiday or a substituted day's leave.
- (b) A part-time employee is entitled to either payment for each public holiday or a substituted day's leave:  
  
Provided that the part-time employee would have been ordinarily rostered to work on that day had it not been a public holiday.
- (c) Where a public holiday would have fallen on a Saturday or a Sunday but is substituted for another day all employees who would ordinarily have worked on such Saturday or Sunday but who are not rostered to work on such day are entitled to payment for the public holiday or a substituted day's leave.
- (d) Where Christmas Day falls on a Saturday or a Sunday and the public holiday is observed on another day an employee required to work on Christmas Day (i.e. 25th December) is to be paid at the rate of double time.
- (e) Nothing in clause 7.6.4 confers a right to any employee to payment for a public holiday as well as a substituted day in lieu.

### 7.6.5 *Double time and a-half*

For the purposes of clause 7.6 "double time and a-half" means one and a-half day's wages in addition to the employee's ordinary time rate of pay or *pro rata* if there is more or less than a day.

### 7.6.6 *Stand down*

Any employee, with 2 weeks or more of continuous service, whose employment has been terminated by the employer or who has been stood down by the employer during the month of December, and who is re-employed in January of the following year, shall be entitled to payment at the ordinary rate payable to that employee when they were dismissed or stood down, for any one or more of the following holidays, namely, Christmas Day, Boxing Day and New Year's Day.

### 7.6.7 *Substitution*

Where there is agreement between the employer and the majority of employees concerned, a public holiday may be substituted for another day. If such other day is worked, then payment for that day will be at the rate of double time and a-half at the employees' ordinary time rate of pay.

## 7.7 **Jury service**

- (a) An employee, other than a casual employee, required to attend for jury service during their ordinary working hours shall be reimbursed by the employer an amount equal to the difference between the amount paid in respect of their attendance for such jury service and the ordinary pay the employee would have been paid if the employee was not absent on jury service.
- (b) Alternatively, by agreement, fees (other than meal allowance) received by the employee to attend jury service will be paid to the employer and the employer will continue to pay the employee their ordinary

pay for the time the employee was absent on jury service.

- (c) Employees shall notify their employer as soon as practicable of the date upon which they are required to attend for jury service and shall provide their employer with proof of such attendance, the duration of such attendance and the amount received in respect thereof.
- (d) If the employee is not required to serve on a jury for a day or part of a day after attending for jury service and the employee would ordinarily be working for all or part of the remaining day, the employee must, if practicable, present for work at the earliest reasonable opportunity.
- (e) "Ordinary pay" means the rate of pay that an employee would normally expect to receive for working ordinary hours on an ordinary day of the week, including any over-award payment. "Ordinary pay" excludes overtime, penalty rates of all types - including those attaching to working ordinary hours (for example) on a Saturday, disability allowances, shift allowances, special rates, fares and travelling time allowances, bonuses and other ancillary payments of a like nature.

## **PART 8 - TRANSFERS, TRAVELLING AND WORKING AWAY FROM USUAL PLACE OF WORK**

No provisions inserted in this Award relevant to this Part.

## **PART 9 - TRAINING AND RELATED MATTERS**

### **9.1 Commitment to training**

The parties to this Award recognise that in order to increase the efficiency and productivity of the enterprise and also the national and international competitiveness of the industries covered by this Award, a greater commitment to training and skill development is required. Accordingly, the parties commit themselves to:

- 9.1.1 developing a more highly skilled and flexible workforce;
- 9.1.2 providing employees with career opportunities through appropriate training to acquire additional skills; and
- 9.1.3 removing barriers to the use of skills acquired.

## **PART 10 - OCCUPATIONAL HEALTH AND SAFETY MATTERS, EQUIPMENT, TOOLS AND AMENITIES**

### **10.1 Accidents**

When employees are injured seriously or fall seriously ill at their work, the employer shall arrange an appropriate means of transport to the nearest hospital.

### **10.2 First aid kits**

First aid kits should be in suitable and secure cases shall be provided at central positions on the works so as to be at all times available for the use of the employees.

## **PART 11 - AWARD COMPLIANCE AND UNION RELATED MATTERS**

### **Preamble**

Clauses 11.1 and 11.2 replicate legislative provisions contained within the Act. In order to ensure the currency of existing legal requirements parties are advised to refer to sections 366, 372 and 373 of the Act as amended from time to time.

### **11.1 Right of entry**

#### *11.1.1 Authorised industrial officer*

- (a) An "Authorised industrial officer" is any Union official holding a current authority issued by the Industrial Registrar.
- (b) Right of entry is limited to workplaces where the work performed falls within the registered coverage of the Union.

#### *11.1.2 Entry procedure*

- (a) The authorised industrial officer is entitled to enter the workplace during normal business hours as long

as:

- (i) the authorised industrial officer alerts the employer or other person in charge of the workplace to their presence; and
  - (ii) shows their authorisation upon request.
- (b) Clause 11.1.2(a)(i) does not apply if the authorised industrial officer establishes that the employer or other person in charge is absent.
  - (c) A person must not obstruct or hinder any authorised industrial officer exercising their right of entry.
  - (d) If the authorised industrial officer intentionally disregards a condition of clause 11.1.2 the authorised industrial officer may be treated as a trespasser.

### 11.1.3 *Inspection of records*

- (a) An authorised industrial officer is entitled to inspect the time and wages record required to be kept under section 366 of the Act.
- (b) An authorised industrial officer is entitled to inspect such time and wages records of any former or current employee except if the employee:
  - (i) is ineligible to become a member of the Union; or
  - (ii) is a party to a QWA or ancillary document, unless the employee has given written consent for the records to be inspected; or
  - (iii) has made a written request to the employer that they do not want their record inspected.
- (c) The authorised industrial officer may make a copy of the record, but cannot require any help from the employer.
- (d) A person must not coerce an employee or prospective employee into consenting, or refusing to consent, to the inspection of their records by an authorised industrial officer.

### 11.1.4 *Discussions with employees*

An authorised industrial officer is entitled to discuss with the employer, or a member or employee eligible to become a member of the Union:

- (a) matters under the Act during working or non-working time; and
- (b) any other matter with a member or employee eligible to become a member of the Union, during non-working time.

### 11.1.5 *Conduct*

An authorised industrial officer must not unreasonably interfere with the performance of work in exercising a right of entry.

## **11.2 Time and wages record**

11.2.1 An employer must keep, at the place of work in Queensland, a time and wages record that contains the following particulars for each pay period for each employee, including apprentices and trainees:

- (a) the employee's award classification;
- (b) the employer's full name;
- (c) the name of the award under which the employee is working;
- (d) the number of hours worked by the employee during each day and week, the times at which the employee started and stopped work, and details of work breaks including meal breaks;
- (e) a weekly, daily or hourly wage rate - details of the wage rate for each week, day, or hour at which the employee is paid;

- (f) the gross and net wages paid to the employee;
- (g) details of any deductions made from the wages; and
- (h) contributions made by the employer to a superannuation fund.

11.2.2 The time and wages record must also contain:

- (a) the employee's full name and address;
- (b) the employee's date of birth;
- (c) details of sick leave credited or approved, and sick leave payments to the employee;
- (d) the date when the employee became an employee of the employer;
- (e) if appropriate, the date when the employee ceased employment with the employer; and
- (f) if a casual employee's entitlement to long service leave is worked out under section 47 of the Act - the total hours, other than overtime, worked by the employee since the start of the period to which the entitlement relates, worked out to and including 30 June in each year.

11.2.3 The employer must keep the record for 6 years.

11.2.4 Such records shall be open to inspection during the employer's business hours by an inspector of the Department of Industrial Relations, in accordance with section 371 of the Act or an authorised industrial officer in accordance with sections 372 and 373 of the Act.

### **11.3.1 Trade union training leave**

11.3.1 A Union delegate or duly elected or appointed Union representative will, upon written application by the Union to the employer, such application being endorsed by the Union and given to the employer at least 2 months in advance (or such lesser period as mutually agreed between the Union and the employer/s), be granted up to 5 working days' leave (non-cumulative) on ordinary pay each calendar year to attend courses or seminars conducted by the Union. The scope, content and level of such courses or seminars must be such as to contribute to a better understanding of industrial relations within the employer's operations. Other courses mutually agreed between the Union and an employer, or employers, may be included under clause 11.3.

11.3.2 Any written application by the Union seeking release of a delegate or representative to attend a course will include details of the type and content of the course to be attended as well as the dates upon which the course is proposed to be conducted.

11.3.3 For the purposes of clause 11.3 "ordinary pay" means the ordinary time rate of pay payable to the employee exclusive of any allowance for travelling time and fares.

11.3.4 The granting of such leave is subject to the employee having at least 6 months' continuous service with the employer prior to such leave being granted and being the elected Union delegate/representative.

11.3.5 Unless otherwise agreed the maximum number of employees of one and the same employer attending a training course or seminar each year will be as follows:

|   |   |
|---|---|
| Where the employer employs between 10-50 employees  | 1 |
| Where the employer employs between 51-100 employees | 2 |
| Where the employer employs over 100 employees       | 4 |

11.3.6 The granting of such leave is subject to the convenience of the employer so that the operations of the enterprise will not be adversely affected.

11.3.7 Where an employer approaches the Union and demonstrates genuine difficulties with respect to the release of a particular Union delegate or representative at a particular time (including where the employer might have previously advised of its ability to release such Union delegate or representative) the Union will not unreasonably press its request for the release of that delegate/representative at that time. If the matter is not amicably resolved, it will be processed in accordance with the grievance and dispute settling procedure contained in clause 3.2.

11.3.8 In granting such paid leave, the employer is not responsible for any additional costs except the payment of extra remuneration where relieving arrangements are instituted by the employer to cover the absence of the employee.

11.3.9 Leave granted to attend such training courses will not incur any additional payment or alternate time off if such course coincides with an employee's rostered day off or with any other concessional leave.

11.3.10 Such paid leave will not affect other leave granted to employees under this Award.

11.3.11 On completion of the course the employee must, upon request, provide to the employer proof of their attendance at the course. Except in the case of sick leave or other authorised leave, non-attendance at a training course will result in the employee not being paid for such time.

#### **11.4 Posting of Award**

A true copy of this Award must be exhibited in a conspicuous and convenient place on the Premises of the employer so as to be easily read by employees.

#### **11.5 Union encouragement**

##### **Preamble.**

Clause 11.5 gives effect to section 110 of the Act in its entirety. Consistent with section 110 a Full Bench of the Commission has issued a Statement of Policy on Union Encouragement (reported 165 QGIG 221) that encourages an employee to join and maintain financial membership of the Union.

##### *11.5.1 Documentation to be provided by employer*

At the point of engagement, the employer shall provide employees with a document indicating that a Statement of Policy on Union Encouragement has been issued by the Commission, a copy of which is to be kept on the Premises of the employer in a place readily accessible by each employee.

The document provided by the employer shall also identify the existence of a union encouragement clause in this Award.

##### *11.5.2 Union delegates*

- (a) Union delegates and job representatives have a role to play within a workplace. The existence of accredited Union delegates and/or job representatives is encouraged.
- (b) The employer shall not unnecessarily hinder accredited Union delegates and/or job representatives in the reasonable and responsible performance of their duties.

Dated 11 March 2005.

By the Commission,  
[L.S.] G.D. SAVILL,  
Industrial Registrar.

Operative Date: 25 May 2005  
Repeal of Industrial Agreement and New Award -  
Tallow Industry - Craig Mostyn & Co. Pty Ltd  
Enterprise Award - State 2005  
Released: 25 July 2005